

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)

In re:)
TRAVIS WILLIAM YATES) Case No. 18-24126-MMH
Debtor) Chapter 7
)
)

MOTION FOR CONTEMPT

Creditor, Huhra Homes, LLC (“Huhra Homes”), moves for an order of contempt against Debtor, Travis William Yates, and states as follows:

Background

1. In Debtor’s recent Chapter 13 case, he reported having over \$12,000 in cash accounts at a financial institution he called “First Financial.” However, in the instant case, he reported having no accounts whatsoever at “First Financial.”
2. In aid of discovering the status of Debtors’ money purportedly deposited at “First Financial,” this Court authorized Huhra Homes to issue a Rule 2004 subpoena to “First Financial” and ordered Debtor to provide the full name and address for “First Financial”.
3. Despite repeated requests, Debtor has refused to provide any information about “First Financial” in violation of this Court’s Order. Debtor’s violation of this Court’s Order warrants that he be held in contempt.

Facts

4. On May 8, 2018, Debtor filed schedules in his Chapter 13 case reporting the following cash:

Savings	First Financial ending 9001 as of 09/19/2017	\$9,269.69
Checking	First Financial ending 9010 as of 09/19/2017	\$3,115.83

(Case 17-22528, Doc. 50 at 5 of 20 (Copy attached as **Exhibit A**)).

5. However, his schedules in the instant Chapter 7 case report no accounts at “First Financial.”

6. To find out what happened with Debtor’s cash at “First Financial,” Huhra Homes requested that this Court authorize a Rule 2004 Subpoena to “First Financial.” Moreover, since “First Financial” is a generic name, Huhra Homes requested its full name and address.

7. On February 1, 2019, this Court entered an order that said: “Debtor shall promptly provide to Huhra Homes’ counsel the full name and address of the entity he described as ‘First Financial’ in the schedules he filed in Case No. 17-25528.” The Order also authorized Huhra Homes to subpoena banking records from “First Financial,” presumably after being provided its full name and address. (ECF 20.)

8. Even after this Court’s February 1, 2019 Order, Debtor has refused to provide any information regarding “First Financial.” On February 25, 2019, Huhra Homes’ counsel emailed Debtor’s counsel to request this information. There was no response. On March 4, 2019, Huhra Homes’ counsel again emailed Debtor’s counsel to request this information. There was no response. On March 13, 2019, Huhra Homes’ counsel telephoned Debtor’s counsel to request this information, and the receptionist said she’d pass along the message. The same day, Huhra Homes’ counsel emailed Debtor’s counsel again as follows:

I am following up again on the below emails, and my recent phone call, requesting the full name and address for “First Financial” per Judge Harner’s Order. I have not received any response. If I don’t hear back from you soon, I will have to seek sanctions. I don’t want to do that, but this situation really leaves me no other choice.

(**Exhibit B**.) Once again, there was no response.

Argument

9. When a debtor disobeys the Bankruptcy Court's order, he is subject to contempt. The appropriate sanction is dismissal of the case without leave to re-file until the debtor has purged himself of the contempt. *In re Patterson*, 111 B.R. 395, 399 (Bankr. N.D.N.Y. 1989). In addition, the injured party is entitled to its attorney's fees. *In re Eppolito*, 583 B.R. 822, 828-29 (Bankr. S.D.N.Y. 2018)

10. In this case, Debtor's refusal to comply with the Court's February 1, 2019 Order is obvious and contumacious.

11. Furthermore, Debtor's behavior has forced Huhra Homes to incur substantial attorney's fees to try to compel Debtor's compliance. Huhra Homes' counsel has spent 3.3 hours researching and preparing this Motion for Contempt. At counsel's rate of \$315 an hour, this amounts to \$1039.50. Counsel's fee is reasonable, based on his training and 26 years' experience. (Exhibit C.) See U.S. District Court for District of Maryland, "Rules and Guidelines for Determining Attorneys' Fees in Certain Cases," Appendix B to Local Rules (setting guideline hourly rate for "Lawyers admitted to the bar for twenty (20) years or more: \$300-475.")

12. Accordingly, the Court should enter an order of contempt against the Debtor. A proposed order is attached.

Respectfully submitted,

/s/ Martin H. Schreiber II

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*Attorney for Creditor,
Huhra Homes, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 19, 2019, a copy of the foregoing was filed through the CM/ECF system for service on all registered users appearing in this case.

/s/ Martin H. Schreiber II
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